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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,407	10/28/2003	Curt E. Beckmann	112-0113US	5641

29855   7590   03/05/2007
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EXAMINER
SUN, SCOTT C

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/695,407	BECKMANN ET AL.
	Examiner	**Art Unit**	
	Scott Sun	2182	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 February 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. See attached sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20070301

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 2/9/2007 have been fully considered but they are not

persuasive. Applicant's arguments are summarized as:

     a.   Prior art of record, Considine, does not teach the claim limitation

"dedicated hardware assist circuitry".

     b.   Prior art of record, Pham, does not teach a "port processor" as required by

the claims and therefore fails to teach "an embedded processor".

     c.   Prior art of record, Pham, does not teach "a frame classifier" which

performs the functions as required by the claim limitation.

2.   Regarding argument 'a', applicant argues that the IP processors 102 and SP

processors 104 do not include dedicated hardware assist circuitry, but merely discuss

these processors in general. However, Examiner notes that Considine teaches that IP

processors provide "content-aware switching, load balancing, mediation, TCP/UDP

hardware acceleration, and fast forwarding." Considine further teaches that the

architecture of system 100 in figure 1 consists of <u>multiple processors</u> that perform

various tasks mentioned previously (paragraph 78). Examples of these processors

include SFCs, LRCs, and SRCs. Considine specifically teaches that the LRCs "perform

load balancing, content-aware switching of internal services; implement storage

mediation protocols; and provide TCP hardware acceleration" (paragraph 79).

Functions of SRCs and LIOs are farther outlined in paragraphs 80 and 81. This clearly

shows that SFCs, LRCs, and SRCs are dedicated hardware assisted circuitry that perform the above mentioned port processing functions.

3.   Regarding argument 'b', applicant argues that Pham does not teach a port processor but instead teaches a protocol processor. Examiner notes that the claims do not clearly define a "port processor", and Pham's teachings of the protocol processor contain elements that perform the same functions as the claimed port processor. For example, the input/output terminals of ingress processors 52 and egress processors 54 of Pham's protocol processor function as the node in the claims, as they receive and transmit network traffic. The data processors 42 and 44 perform second selected port processing functions (compression, decompression, encryption, etc... paragraphs 41, 42) as embedded processors. The ingress and egress processor functions as a frame classifier to select fast path, bypassing data packet processors, or slow path processing by the data packet processors 42, 44. Accordingly, teachings of Pham completely meet the claim limitations. Applicant's statements that a protocol processor is not the same as a port processor may be valid with additional details of applicant's specification, however, it is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4.   Regarding argument 'c', applicant argues that the frame classifier (ingress and egress processors in Pham) does not "determine if said network traffic should be provided to said embedded processor or directly to said switch" because the data would always pass through the switch even if passed to the embedded processor (data

processor of Pham). Examiner notes that the claim language does not preclude providing network traffic to embedded processor to also pass through the switch. The claim merely requires that a determination is made, but not necessarily requiring actions taken accordingly to the result of the determination (providing to said embedded processor or directly to said switch). Furthermore, even if the action of providing data to the embedded processor is taken, the claim language does not necessarily require providing data to the embedded processor without passing through the switch.

5.   Having responded to each of applicant's arguments, examiner notes that previous grounds of rejection are still valid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Sun whose telephone number is (571) 272-2675. The examiner can normally be reached on M-F, 10:30am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim N. Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SS

KIM HUYNH
SUPERVISORY PATENT EXAMINER

3/2/67